

## Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 EURE-00 CIAE-00 DODE-00 PM-05 H-01  
INR-07 L-03 NSAE-00 NSC-05 PA-01 PRS-01 SP-02  
SS-15 NSCE-00 SSO-00 USIE-00 INRE-00 DHA-02  
ACDA-07 IO-13 TRSE-00 /075 W  
-----109651 051309Z /50

O R 051208Z AUG 77  
FM AMEMBASSY BONN  
TO SECSTATE WASHDC IMMEDIATE 0360  
USMISSION USBERLIN IMMEDIATE  
INFO AMEMBASSY BERLIN  
AMEMBASSY LONDON  
AMEMBASSY MOSCOW  
AMEMBASSY PARIS  
USMISSION NATO

C O N F I D E N T I A L SECTION 01 OF 03 BONN 12813

DEPARTMENT FOR EUR/CE

E.O. 11652: GDS  
TAGS: PGOV, BQG  
SUBJECT: LORENZ-DRENCKMANN TRIAL IN BERLIN  
  
REFS: (A) USBER 2025; (B) BONN 12731; (C) STATE 181704  
(D) STATE 181702; (E) USBER 2006;  
(F) STATE 180322; (G) BONN 12504; (H) BONN 12441;  
(I) 76 BONN 11478; (J) 76 STATE 180322

BEGIN SUMMARY: THE AMBASSADOR HAS RAISED WITH FOREIGN  
OFFICE STATE SECRETARY VAN WELL OUR CONCERNS OVER  
RECENT DEVELOPMENTS IN THE LORENZ CASE AND STRESSED  
THE NEED FOR DISCREET HANDLING ON THE PART OF FRG  
OFFICIALS. VAN WELL RECOGNIZED THE NEED FOR DISCRETION  
AND SAID HE HAD EMPHASIZED THIS IN A LETTER JUST  
SENT TO THE MINISTRY OF JUSTICE. VAN WELL'S LETTER,  
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AS DESCRIBED MORE FULLY IN THE BONN GROUP, POINTED  
OUT THE CONDITIONS ON WHICH ALLIED AGREEMENT ON  
HOLDING THE TRIAL IN BERLIN HAD BEEN BASED AND SUGGESTED  
THAT FEDERAL OFFICIALS, IN ANSWERING PRESS QUERIES,  
ACKNOWLEDGE THE FACT THAT THE BERLIN OFFICE OF THE  
FEDERAL PROSECUTOR WAS SUBORDINATE TO THE SUPREME  
AUTHORITY OF THE ALLIES. IN A DISCUSSION OF THE

SOVIET PROTEST WHICH HAD BEEN DELIVERED IN THE THREE ALLIED CAPITALS, THE FRENCH REP SAID PARIS WAS "SERIOUSLY CONCERNED" ABOUT THE MATTER. THE UK REP, STATING THAT HE WAS SPEAKING PERSONALLY, MADE A PARTICULARLY SHARP ATTACK ON THE WAY THE FRG HAD HANDLED MATTERS THUS FAR. AS INSTRUCTED, THE US REP ASKED THE FRG TO INFORM US OF THE EXPERTISE WHICH THE ATTORNEYS FROM KARLSRUHE COULD PROVIDE WHICH WAS NOT AVAILABLE IN BERLIN; HE ALSO REPEATED THE REQUEST FOR A LEGAL OPINION ON THE EFFECT ON THE PROCEEDINGS OF A CHANGE OF VENUE. AS THE INFORMATION IN REF A ON THE NAMES AND TITLES OF THE THREE ATTORNEYS TO BE DETAILED FROM KARLSRUHE CONFIRMS THAT WHICH HAS TWICE BEEN GIVEN US OFFICIALLY BY THE FOREIGN OFFICE, WE DO NOT SEE A NEED FOR REQUESTING FORMAL WRITTEN CONFIRMATION OF THESE NAMES, AS SUGGESTED BY REF A. END SUMMARY

1. DURING A MEETING WITH FOREIGN OFFICE STATE SECRETARY VAN WELL AUGUST 3, THE AMBASSADOR RAISED THE PENDING LORENZ PROSECUTION AND STRESSED THE NEED FOR DISCREET HANDLING, PARTICULARLY OF THE PUBLIC RELATIONS ASPECTS OF THE CASE. HE MENTIONED THE TWO SOVIET PROTESTS IN ALLIED CAPITALS THIS WEEK -- ONE ON THE LORENZ CASE (REF F) AND ONE ON THE STATEMENT BY MINISTRY OF INTERIOR PARLIAMENTARY STATE SECRETARY CONFIDENTIAL

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BAUM ON THE STATUS OF BERLIN (REFS B AND C) -- AS INDICATIONS OF A CURRENT SOVIET FOCUS ON THE FRG/BERLIN RELATIONSHIP.

2. RECALLING AMBASSADOR HILLENBRAND'S CONVERSATION WITH VAN WELL CONCERNING THE LORENZ CASE LAST YEAR (REFS I AND J), THE AMBASSADOR REMINDED VAN WELL OF THE POLITICAL SENSITIVITY OF THE MATTER AND ASKED FOR FRG COOPERATION IN ENSURING A LOW-KEY APPROACH AS THE TRIAL PROGRESSED. VAN WELL ACKNOWLEDGED HIS AWARENESS OF THE POLITICAL SENSITIVITY OF THE BERLIN ASPECTS OF THE CASE AND SAID HE HAD REMINDED THE VARIOUS FRG GOVERNMENT AGENCIES CONCERNED OF THIS IN A LETTER HE HAD SENT AUGUST 2.

3. IN THE AUGUST 3 BONN GROUP MEETING, FRG REP (LUECKING) SAID THAT HE WISHED TO EMPHASIZE THE CONTINUING CONCERN OF THE FOREIGN OFFICE WITH THE WAY THE LORENZ PROSECUTION IS HANDLED. HE REPEATED THE NAMES OF THE PROSECUTING ATTORNEYS FROM KARLSRUHE WHO WOULD BE DETAILED TO BERLIN TO TAKE PART IN THE CASE (REF H) AND, IN RESPONSE TO OUR REQUEST FOR CLARIFICA-

TION, SAID THAT ERSTER OBERSTAATSANWALT VOELZ IS THE  
MOST SENIOR OF THE THREE, FOLLOWED BY OBERSTAATSANWALT

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O R 051208Z AUG 77  
FM AMEMBASSY BONN  
TO SECSTATE WASHDC IMMEDIATE 0361  
USMISSION USBERLIN IMMEDIATE  
INFO AMEMBASSY BERLIN  
AMEMBASSY LONDON  
AMEMBASSY MOSCOW  
AMEMBASSY PARIS  
USMISSION NATO

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WIDERA AND STAATSANWALT JAEKL. LUECKING SAID THAT  
THE HEAD OF THE BERLIN OFFICE (BUNDESANWALT OBERLE)  
WOULD BE THEIR OFFICIAL SUPERIOR. HE REPEATED PRIOR  
FRG STATEMENTS THAT THE OFFICIALS IN THE BERLIN OFFICE  
OF THE FEDERAL PROSECUTOR WERE NOT TRIAL LAWYERS BUT  
WERE EXPERT ONLY IN APPELLATE WORK.

4. LUECKING READ TO US THE LETTER DESCRIBED ABOVE  
WHICH VAN WELL HAD WRITTEN TO STATE SECRETARY ERKEL  
IN THE MINISTRY OF JUSTICE, WITH COPIES TO BERLIN  
SENATOR FOR FEDERAL AFFAIRS KORBER AND STATE SECRETARY  
SCHUELER OF THE FEDERAL CHANCELLOR'S OFFICE. LUECKING  
SAID HE WANTED TO MAKE THIS FULL DISCLOSURE AS EVIDENCE  
OF THE FOREIGN OFFICE'S "ABSOLUTE LOYALTY" TO THE  
BONN GROUP. THE LETTER NOTED THAT THE ANNOUNCEMENT  
OF THE INDICTMENT OF THE ALLEGED PARTICIPANTS IN THE  
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LORENZ AND DRENCKMANN CASES HAD LED TO A GREAT DEAL OF PUBLIC INTEREST, RECALLED THAT THE SOVIETS HAD REPEATEDLY PROTESTED TO THE ALLIES IN THE PAST ABOUT THE MATTER, AND SAID THAT A REPORT OF ANOTHER PROTEST HAVING BEEN MADE IN PARIS HAD JUST BEEN RECEIVED.

5. THE VAN WELL LETTER CONTINUED BY SAYING THAT, AS THE MINISTRY OF JUSTICE WAS AWARE, THE THREE POWERS HAD AUTHORIZED THE PROSECUTION OF THIS CASE IN BERLIN BY THE FEDERAL PROSECUTOR'S OFFICE ON CONDITION THAT THE PROSECUTING ATTORNEYS BELONG TO THE BERLIN OFFICE. THE ALLIES HAD PLACED SPECIAL EMPHASIS ON THIS CONDITION. THE CONDUCT OF THE TRIAL BY THE BERLIN OFFICE RATHER THAN BY KARLSRUHE HAD ALSO BECOME A MATTER OF PUBLIC INTEREST AND CSU MEMBER OF THE BUNDESTAG SPRENGER HAD ASKED WHY THE FEDERAL PROSECUTOR GENERAL WOULD CARRY OUT THE PROSECUTION THROUGH THE BERLIN OFFICE RATHER THAN IN PERSON, SINCE THAT SUPPORTED THE SOVIET "THREE GERMAN STATES" THESIS. THE LETTER STATED THAT THE ALLIES UNDERSTOOD THAT THE BERLIN OFFICE WAS NOT INDEPENDENT OF KARLSRUHE. HOWEVER, IT WAS IMPORTANT FOR THEIR ARGUMENT THAT THE TRIAL WAS LEGAL AND FOR THEIR RESPONSE TO SOVIET PROTESTS THAT THE BERLIN OFFICE BE RESPONSIBLE FOR THE CONDUCT OF THE TRIAL. THE LETTER ASKED THAT KARLSRUHE, IN RESPONDING TO QUESTIONS WHY KARLSRUHE WOULD NOT PROSECUTE BUT BERLIN WOULD, MAINTAIN THE POSITION THAT THE BERLIN OFFICE WOULD CONDUCT THE PROSECUTION.

6. THE VAN WELL LETTER CONTAINED A SUGGESTED ANSWER TO PRESS OR OTHER PUBLIC INQUIRIES, AN INFORMAL TRANSLATION OF WHICH FOLLOWS:

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"IN CONNECTION WITH THE APPOINTMENT OF THE PROSECUTORS IN THE CASE AGAINST THE SECOND OF JUNE MOVEMENT, IT WAS NECESSARY TO OBSERVE THE RELEVANT GERMAN LAW IN THE AREA OF CRIMINAL LAW, CRIMINAL PROCEDURE AND RULES OF COURT, WHICH HAVE BEEN TAKEN OVER IN BERLIN, AS WELL AS THE APPLICABLE ALLIED LAW. IT IS WELL KNOWN THAT THE THREE POWERS EXERCISE SUPREME AUTHORITY IN BERLIN (WEST). IT ALSO FOLLOWS FROM THE LEGAL INSTRUMENTS, WHICH THE ALLIED

KOMMANDATURA HAS ISSUED IN CONNECTION WITH THE  
TAKING OVER OF THE RELEVANT FEDERAL LAWS IN  
BERLIN (WEST), THAT THE BERLIN OFFICE OF THE  
FEDERAL PROSECUTOR'S OFFICE, AND THE OFFICIALS  
WHICH BELONG TO IT, ARE SUBORDINATE TO THIS  
SUPREME AUTHORITY."

7. THE ALLIED REPS THANKED LUECKING FOR HIS BRIEFING  
AND REPORTED ON THE SOVIET DEMARCHES MADE IN THEIR  
CAPITALS. THE TEXTS OF THE DEMARCHES MADE IN LONDON  
AND WASHINGTON (REF F) APPEAR TO BE IDENTICAL EXCEPT  
FOR MINOR DIFFERENCES IN TRANSLATION; FROM AN ORAL  
REPORT BY THE FRENCH REP, THE DEMARCHE MADE IN PARIS  
APPEARS TO BE THE SAME TEXT. THE FRENCH REP (RICHARD)  
SAID THAT IN RESPONSE TO THE SOVIET DEMARCHE, THE  
QUAI SECRETARY GENERAL HAD SIMPLY REPLIED THAT THE  
FRENCH LAY GREAT IMPORTANCE ON ADHERENCE TO THE  
QUADRIPARTITE AGREEMENT. RICHARD WENT ON TO SAY THAT  
THE MATTER WAS "PREOCCUPANT" (OF SERIOUS CONCERN) TO  
THE QUAI. (COMMENT: RICHARD DID NOT INFORM THE  
GERMANS OF THE QUAI'S SUGGESTION THAT THE HOLDING  
OF THE TRIAL IN BERLIN BE PROHIBITED (REF G).)

8. LUECKING SAID THAT THE FRG WAS ALSO CONCERNED  
AND THIS WAS THE REASON THE FRG HAD INTENTIONALLY

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ACDA-07 IO-13 TRSE-00 /075 W

-----109853 051310Z /50

O R 051208Z AUG 77

FM AMEMBASSY BONN

TO SECSTATE WASHDC IMMEDIATE 0362  
USMISSION USBERLIN IMMEDIATE  
INFO AMEMBASSY BERLIN  
AMEMBASSY LONDON  
AMEMBASSY MOSCOW  
AMEMBASSY PARIS  
USMISSION NATO

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CAUSED THE INDICTMENT TO BE SIGNED BY ACTING FEDERAL PROSECUTOR GENERAL KAUL THE DAY BEFORE THE NEW FEDERAL PROSECUTOR GENERAL REBMANN TOOK OFFICE. UK REP (EYERS) COMMENTED THAT THIS WAS WELL AND GOOD, BUT THAT THE VALUE OF THAT ACTION HAD BEEN VITIATED BY REBMANN'S REPORTED REMARKS THAT HE COULD HAVE SIGNED THE INDICTMENT AS WELL. EYERS SAID THAT THE UK CONCERN WAS PRIMARILY ABOUT THE ACTIVITIES OF THE MINISTRY OF JUSTICE, WHICH APPARENTLY CONSIDERED THAT IT WAS OBLIGED TO FOLLOW AND WAS FULLY SUPPORTED BY THE CONSTITUTIONAL COURT DECISION OF 1973 REGARDING THE RELATIONSHIP BETWEEN BERLIN AND THE FRG.

9. THE US REP REMINDED THE FRG REP OF THE PENDING REQUEST FOR A SUBSTANTIVE LEGAL OPINION AS TO THE EFFECT OF A CHANGE OF VENUE ON THE TRIAL, E.G. AS A CONFIDENTIAL

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BASIS FOR APPEAL. HE NOTED THAT IF THE DEFENDANTS HAD A RIGHT TO BE TRIED IN BERLIN, THIS WAS A STRONG ARGUMENT FOR THE TRIAL BEING HELD THERE. HE ALSO SAID THAT THE QUESTION WAS NOT WHETHER THE TRIAL MAY BE HELD IN BERLIN, THE ALLIES HAVING ALREADY AGREED TO THAT. RATHER, THE PROBLEM WAS ONE OF EXCESSIVE PUBLICITY, WHICH SEEMED TO EXACERBATE SOVIET SENSITIVITIES ABOUT THIS MATTER. HE ALSO STATED THAT, ON INSTRUCTIONS (REF D), HE HAD BEEN ASKED TO INQUIRE AS TO WHAT ADDITIONAL EXPERTISE THE KARLSRUHE ATTORNEYS WERE BRINGING TO BERLIN WHICH THE BERLIN OFFICE COULD NOT PROVIDE. LUECKING AGREED TO RESPOND TO BOTH OF THE US REQUESTS.

10. COMMENT: THE FOREIGN OFFICE SEEMS TO BE GENUINELY CONCERNED ABOUT THE ALLIED SENSITIVITIES AND THE NEED TO RESPECT THE AGREEMENTS ALREADY REACHED WITH REGARD TO THE MANNER IN WHICH THE TRIAL IS TO BE HELD IN BERLIN. THE PROBLEM CONTINUES TO BE THAT THIS SENSITIVITY MAY NOT BE SHARED WIDELY WITHIN

THE FRG. HOWEVER, THERE HAVE BEEN NO PROMINENT PRESS REPORTS WITHIN THE LAST FEW DAYS AND IT MAY BE THAT VAN WELL'S LETTER TO THE JUSTICE MINISTRY -- SENT IMMEDIATELY AFTER HIS RETURN FROM VACATION TO REINFORCE REPORTS ALREADY SENT BY LUECKING CONCERNING ALLIED VIEWS -- WILL HAVE SOME EFFECT.

11. THE DEGREE OF FRENCH CONCERN ABOUT THE MATTER IS REPORTED IN REFS D AND G. EYERS, SPEAKING PERSONALLY AND NOT ON INSTRUCTIONS FROM HMG, ALSO EXPRESSED INTENSE CONCERN AT THE CONFLUENCE OF RECENT FRG ACTIVITIES AND PUBLICITY ABOUT THEM WHICH TEND TO EXCITE SOVIET SENSITIVITIES. HE CITED THE SOVIET CONFIDENTIAL

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REACTION TO THE USE OF "LAND BERLIN" (REFS B AND C) AND PRESS REPORTS OF A RECENT VISIT BY INTERIOR MINISTER MAIHOFFER TO BERLIN IN CONNECTION WITH THE INAUGURATION OF THE NEW OBERSTAATSANWALT (SOLICITOR GENERAL) OF THE FEDERAL ADMINISTRATIVE COURT THERE. HIS REMARKS ARE REPORTED MORE FULLY IN SEPTTEL. WE HAVE NOT BEGUN CONSIDERATION OF A DRAFT REPLY TO THE SOVIET PROTESTS SINCE THE FRENCH ARE UNDER INSTRUCTIONS NOT TO DISCUSS SUCH A REPLY UNTIL THEY RECEIVE NEW GUIDANCE FROM PARIS.

12. WITH RESPECT TO PARAGRAPH 5 OF REF A, WE DO NOT BELIEVE ANY USEFUL PURPOSE WOULD BE SERVED BY DEMANDING A FORMAL WRITTEN STATEMENT FROM THE FRG IDENTIFYING THE ATTORNEYS ASSIGNED TO BERLIN OR THE MANNER IN WHICH THEY HAVE BEEN ASSIGNED. THE INFORMATION HAS BEEN PROVIDED OFFICIALLY IN THE BONN GROUP AND IS CONFIRMED IN REF A. WE PROPOSE TO COMMENT SEPARATELY ON THE OTHER POSSIBLE STEPS WHICH USBER MENTIONS IN REF A.  
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## Message Attributes

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**Type:** TE  
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